IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3034 OF 2006

Mr.Naman Patel ..Petitioner

Vs.

Union of India & Ors. ..Respondents

Mr.Shailesh Shah with Jitendra Jain i/b. Amit Shroff
with Ashish Mashru for the Petitioner.
Mr.A.N.Kotangale, A.G.P. for the Respondents.

CORAM :- DR.S.RADHAKRISHNAN &
J.P.DEVADHAR,JJ.

DATE : 5TH FEBRUARY,2007

P.C.

1. Heard the learned Counsel for the parties.

Rule. Rule is made returnable forthwith. The learned Counsel for the Respondents waives service. By consent, taken up for final hearing. By this Petition, the Petitioner is challenging the order dated 11th July,2006 passed by the Tax Recovery Officer under Rule 11 of the Schedule-II of the Income Tax Act.

2. The main grievance of the Petitioner is that the Petitioner claims to be in actual and physical possession of the Flat since 1995 and also that the Share Certificate of the Co-operative Society has been duly transferred in the name of the Petitioner in the year 1995 itself. Therefore, the main contention of

the Petitioner is that the Tax Recovery Officer has not considered all these aspects, while passing an impugned order dated 11th July,2006. In view of the same, on this limited ground, as all the relevant facts and circumstances and the alleged factum of the possession has not been duly considered by Tax Recovery Officer, we quash and set aside the impugned order dated 11th July,2006 and remand back the same to the Tax Recovery Officer for a fresh determination of the aforesaid issues. It is made clear that all the contentions of both the parties are expressly kept open. The Writ Petition stands disposed of accordingly.

(J.P.DEVADHAR,J.) **(DR.S.RADHAKRISHNAN,J.)**